

Mayor Charles Henderson called the meeting to order at 6:00 p.m.

PRESENT: Board Members Mayor Charles Henderson, and Thom Hord; Deputy Clerk Kathie Fritz; City Attorney Shawna Koons; City Engineer and Director of the Department of Community Development Services Mark Richards.

Mr. Hord moved to accept the regular minutes of April 8th, 2010 as presented. Second by Mayor Charles Henderson. **Vote: Ayes. Motion carries.**

Director of Community Development Services and City Engineer Mark Richards reviewed the following recommendations of Paul Peoni Engineering Division of the Department of Community Development Services:

Home Depot #2019 State Road 135 & Smith Valley Road

Jim McCarthy, Home Depot, and George Abel, Easter & Cavoise, appeared regarding the following request as they feel they are in compliance.

- 1) Refund of \$146,104.09 for the sanitary sewer installation at the Home Depot site.

The dollar amount stated above was included in the overall dollar amount of \$514,426.56 which was the dollar amount of performance letter-of-credit (LOC) CY411454 from First Union National Bank later to become Wachovia Bank. This performance LOC covered the performance of the construction of dirt work, storm sewers, erosion control, signs & monuments, sidewalks, street improvements & sanitary sewer. All infrastructure improvements were included on one guarantee by Home Depot even though they were told back in 2001, before acceptance of this LOC, that they really should post separate performance guarantees for each infrastructure improvement.

The sanitary sewer was the only improvement listed on the performance LOC #CY411454 that was actually inspected, tested, accepted and had a three (3) year maintenance bond put in place back in 2002. The three (3) year maintenance bond for the sanitary sewer was officially released by the Board at their March 24, 2005 meeting with sanitation field department recommendation that everything in the field regarding the sanitary sewer was ok.

Because Home Depot chose to put all infrastructure improvements on ONE guarantee, when the sanitary sewer was accepted back in 2002, performance LOC #CY411454 was never released or reduced. All other improvements included on performance LOC #CY411454, to this date, have either not been constructed, inspected, tested or accepted. Home Depot has made no effort to start the acceptance process on any of the remaining items covered by LOC #CY411454.

If you will recall, because no action was taken by Home Depot on any of the other improvements, especially the Smith Valley Road improvements, the Board in 2009 drew down on performance LOC #CY411454 for the entire amount of \$514,426.56 which included the amount for the sanitary sewer. This \$514,426.56 has been deposited into City accounts.

Mr. Richards stated that it had been suggested to Home Depot to get separate letters of credit which would have helped to avoid the current situation. Mr. McCarthy stated that since the City has drawn down on the letter of credit that it may now be possible to refund certain portions as improvements are completed. Discussion followed regarding what funds the money would come out of.

Moved by Mr. Hord to approve the request to refund \$146,104.09 to Home Depot for the sanitary sewer installation. Second by Mayor Charles Henderson. **Vote: Ayes. Motion carries.**

K & R Medical Equipment Repair, Inc. 3490 West Smith Valley Road

Gartner Int. LLC – Rick Gartner has submitted a request to encroach into a sanitary sewer easement at his property located at 3490 West Smith Valley Road. Two maps are attached which identify the limits of the parking lot as well as the easement (highlighted in yellow). Mr. Gartner has received approval from the Johnson County Planning Department to pave the parking lot, but a portion of the lot will encroach into the easement (Inst. #2001-8355). Keith Meier at the Greenwood Sanitation Department has reviewed the paving plan provided by Mr. Gartner and found that the placement of the asphalt parking lot does not pose a problem for the sanitary sewer. A copy of Mr. Meier's letter was provided for the Board's review.

Mr. Hord to approve the request to encroach into the sanitary sewer easement on the east side of the property located at 3490 West Smith Valley Road for the purpose of constructing an asphalt parking lot, subject to pavement being removed and replaced at owner's expense should any work be required in the sanitary sewer easement and direct the City Attorney to prepare an agreement document memorializing the encroachment approval. Second by Mayor Charles Henderson. **Vote: Ayes. Motion carries.**

Nuisance Complaints

None.

Audience

None.

City Attorney Status of Tasks

City Attorney Shawna Koons confirmed that everyone received the Memorandum of Status of Tasks and asked if there were any questions.

City Attorney Shawna Koons presented the following:

Amendment to Restrictive Donation Agreement with Clark Pleasant Community School Corporation, Worthsville Road Improvements

As the Board is aware, in 2003 the City entered into a Restrictive Donation Agreement with the Clark Pleasant Community School Corporation (CPCSC) in which CPCSC donated \$330,000 to the City to be used for improvement of Worthsville Road between Sheek Road and I-65, which fronts CPCSC property. The terms of that agreement incorporated specific road improvement plans and included a completion date of December 31, 2008. Following the completion of this Agreement, the Redevelopment Commission issued a bond to reconstruct Worthsville Road from I-65 west to U.S. 31, which included that portion of Worthsville Road for which the restrictive donation was given. The City determined that the improvements as originally intended by the Agreement should not be done since the Redevelopment Commission project would require that they be removed, and therefore improvements to the road on a reduced scope (wedge and level) was done instead.

The Director of Operations suggested that the restrictive donation be used to wedge and level Worthsville Road between U.S. 31 and Sheek Road instead, as that portion of the road is in need of repair, with the understanding that the Redevelopment Commission will reconstruct the road within five (5) years. The City Attorney contacted the CPCSC to request that the Restrictive Donation Agreement be amended for this purpose; counsel for CPCSC and CPCSC representative Jay Wise contacted the City Attorney and advised her the CPCSC Board would be amenable to the amendment if the City would agree to at least pave that portion of Worthsville Road between I-65 and Sheek Road where there are entrances to its new Middle School (as it did for the entrances to the Intermediate School) and confirm a timeline for the Redevelopment Commission to complete the reconstruction of Worthsville Road.

The Mayor and Director of Operations agree that the paving of the entrances to the new Middle School and the confirmation of a timeline for reconstructing Worthsville Road are manageable terms for the amendment. The City Attorney prepared a proposed "Second Amendment to Restrictive Donation Agreement" to change the scope and location of the improvements and the timeline for completing them. A copy of the original Agreement, the First Amendment to Restrictive Donation Agreement, and the proposed Second Amendment to Restrictive Donation Agreement were provided for the Board's review and consideration.

Moved by Mr. Hord to approve the "Second Amendment to Restrictive Donation Agreement" to amend the Restrictive Donation Agreement with Clark-Pleasant Community School Corporation regarding the Worthsville Road improvement project to change the scope and location of the improvements as prepared and presented by the City Attorney and to authorize the Mayor to sign the Amendment in the Board's behalf. Second by Mayor Charles Henderson. **Vote: Ayes. Motion carries.**

Resolution No. 10-01, Changing the City's Primary and Preferred Health Provider in Possible Worker's Compensation Injuries to St. Francis Occupational Health Center

Human Resources Director Katie White-Knartzer recommends that the City change its primary and preferred worker's compensation health provider from Methodist Occupational Health Center to St. Francis Occupational Health Center. St. Francis is relocating its occupational health center to Greenwood in May 2010 and it will be more conveniently located than Methodist. Such change must be done by Resolution, and the City Attorney has prepared a Resolution for this purpose, which was provided for the Board's review and consideration.

Moved by Mr. Hord to adopt Resolution No. 10-01, "A Resolution Amending Board of Public Works and Safety Resolution No. 96-7, as Amended, to Change the City's Mandatory Health Provider in Possible Worker's Compensation Injuries from Methodist Occupational Health Center to St. Francis Hospital Occupational Health Center, Unless Extraordinary Circumstances Exist and Warrant Another Provider". Second by Mayor Charles Henderson. **Vote: Ayes. Motion carries.**

City Engineer

Director of Community Development Services and City Engineer Mark Richards reviewed the following recommendations of Paul Peoni Engineering Division of the Department of Community Development Services:

LaQuinta Hotel (Main Street / Interstate 65 / South Park Boulevard

- 1) Release performance bond #5029410 from Bond Safeguard Insurance Company in the amount of \$56,966.14 for the installation of the storm sewer & dirt work at the LaQuinta Hotel site.
- 2) Release performance bond #5029411 from Bond Safeguard Insurance Company in the amount of \$4,966.50 for the installation of the erosion control at the LaQuinta Hotel site.
- 3) Release performance bond #5029412 from Bond Safeguard Insurance Company in the amount of \$1,250.37 for the installation of the sanitary sewer at the LaQuinta Hotel site.

The developer had submitted this project through the plan commission back in late 2007. Review had been completed but a land alteration permit was never applied for by the developer or issued by the plan commission. The approvals for this project have now expired.

The developer's representative, Chintu K. Patel, has informed the City that they are no longer interested in building this hotel and request that the Board release the performance bonds mentioned above. At this time the engineering division recommends that the Board make the motions stated above.

Moved by Mr. Hord. Second by Mayor Charles Henderson. **Vote: Ayes. Motion carries.**

1153 w. Curry Road (Vaught Property New Home Construction South of Barrington West

- 1) Accept & execute the Dedication of Public Right-of-Way at 1153 West Curry Road.

The owners are having a new home built at this location and were just recently annexed into the City. They are working with the sanitation department on the sanitary sewer connection and with the planning division on the building and land alteration permit issues.

One of the plan commission issues was dedication of public right-of-way. The form of the document has been prepared and approved by the law department and the engineering division has reviewed and approved the legal description and the exhibit. At this time the engineering division recommends that the Board make the motions stated above.

Moved by Mr. Hord. Second by Mayor Charles Henderson. **Vote: Ayes. Motion carries.**

Human Resources

Director of Human Resources Katie White-Knartzer introduced Andrew Appel and Andy Brown from Gregory and Appel. Mr. Brown spoke on the City's renewal of property insurance and liability insurance. There was a small increase for property insurance of 1.5%. Ms. White-Knartzer stated that the renewal of insurance needs to be approved by the Board. Mr. Hord moved to approve the renewal of property insurance and liability insurance as presented. Second by Mayor Charles Henderson. **Vote: Ayes. Motion carries.**

Ms. White-Knartzer stated that on February 18th 2010 the Board had approved paying for some worker's compensation claims. Accident Fund has sent voluntary settlement proposals. Ms. White-Knartzer stated that after meeting with Fire Chief James Sipes and City Attorney Shawna Koons it is recommended not to accept the proposals. Ms. White-Knartzer asked the Board to ratify paying the claims, and to reject the proposal for voluntary settlement. City Attorney Shawna Koons explained that because of HIPAA and applicable confidentiality laws, specific information regarding the employees and the circumstances is not public record and may not be disclosed. However, she explained that the claims regarded illnesses the City believes were contracted in the course of employment and should be covered under the worker's compensation policy, but Accident Fund disagrees. Since the claims are of a small amount she advises the City pay these and reserve the right to dispute coverage for such claims in the future. Mayor Charles Henderson moved to ratify the payment of the employee's claims totaling \$460.48. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

Mr. Hord moved to reject the voluntary settlement agreements regarding worker's compensation claims. Second by Mayor Charles Henderson. **Vote: Ayes. Motion carries.**

Director of Operations

None.

Clerk Treasurer

None.

BOARD OF PUBLIC WORKS AND SAFETY

APRIL 22nd, 2010

Page 5 of 5

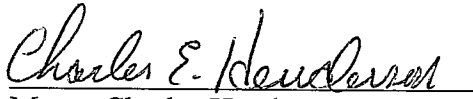
Claims

Mr. Hord moved to accept and approve the claims as presented through April 22nd, 2010.
Second by Mayor Charles Henderson. **Vote: Ayes. Motion carries.**

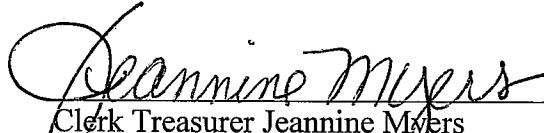
Mayor

None.

With no further business, the meeting adjourned at 6:30 p.m.



Mayor Charles Henderson



Clerk Treasurer Jeannine Myers

